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December 17, 1998

K. David Waddell
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: BellSouth Telecommunications, Inc.'s Entry into Long Distance Interlata Service
in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996
Docket No. 97-00309

Dear David:

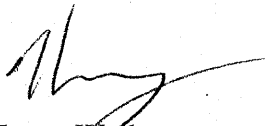
Pursuant to the November 19, 1998 status conference in the above-referenced docket, enclosed please find the original plus thirteen (13) copies of the matrix summarizing evidence presented to the TRA and FCC by ACSI. Also attached is a diskette with the matrix in wordperfect format.

Copies have been served on all parties of record.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

HW/th

Enclosure

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

BELLSOUTH TELECOMMUNICATIONS,)	
INC.'s ENTRY INTO INTERLATA)	
SERVICES PURSUANT TO SECTION 271)	DOCKET NO. 97-00309
OF THE TELECOMMUNICATIONS ACT)	
OF 1996)	

MATRIX OF ACSI's EVIDENCE

At the request of the Tennessee Regulatory Authority, American Communications Services, Inc. d/b/a e/spire Communications, Inc. ("ACSI") submits the following matrix summarizing ACSI's direct evidence, as well as evidence developed by ACSI through the cross-examination of BellSouth's witnesses, relevant "checklist items" as well as the "public interest" factor. An electronic copy of this filing has also been supplied to the Authority.

ACSI's witness, Mr. James Falvey, focused on checklist items 4, 11, 13, and 14. He also discussed several types of anti-competitive conduct by BellSouth and cited some state-specific legal impediments to local exchange competition in Tennessee.

The following matrix refers to the checklist items addressed by Mr. Falvey. The column labeled "FCC decision" refers to the FCC's Memorandum Opinion issued October 13, 1998, in "Application of BellSouth Telecommunications to Provide In-Region, InterLATA Services in Louisiana," CC Docket 98-121 ('Louisiana').

Checklist Item 4: access local loops on non-discriminatory basis.

TRA EVIDENCE	FCC EVIDENCE	FCC DECISION
<p>BellSouth has consistently failed to make timely cutovers of service</p> <p>Direct testimony of James Falvey, Tr. Vol. XI , at pages 111, 126-127, 133-134, 140-142, .</p>	<p>Not Applicable</p>	<p>“BellSouth failed to demonstrate that it can provide loop cutovers based on reasonably feasible demand in a timely and reliable fashion.” Louisiana II, paragraph 192.</p> <p>“It is impossible for us to determin if loops are being cut over in a timely manner.</p> <p><i>Id.</i> , at paragraph 197.</p>

Checklist Item 11: number portability “with as little impairment of functioning, quality, reliability and convenience as possible.”

TRA EVIDENCE	FCC EVIDENCE	FCC DECISION
BellSouth consistently fails to make timely cutovers involving number portability. Direct testimony of James Falvey, Vol XI at pages 111, 126-127, 133-134, 140-142.	Incidents of delayed cutovers in other states.	The “BOC must demonstrate that it can coordinate number portability with loop cutovers in a reasonable amount of time and with minimum service disruption.” BellSouth has failed to provide quantitative evidence that it is making cutovers within a reasonable time. <i>Id</i> , paragraph 281-2833.

Checklist Item 13: reciprocal compensation.

TRA EVIDENCE	FCC EVIDENCE	FCC DECISION
Cross-examination of Varner, Tr. Vol III B, pp. 78-80, in which he explained that BellSouth's SGAT "makes it clear that reciprocal compensation does not apply" to local calls made to enhanced service providers, such as Internet service providers. <i>See also</i> Falvey direct testimony, Tr. Vol. XI, at pages 109-110, explaining that Bell is refusing to pay reciprocal compensation despite state orders.	Not relevant to Tennessee.	"Any future grant of . . . authority under section 271 will be conditioned on compliance with forthcoming decisions relating to Internet traffic in Louisiana." Louisiana II, paragraph 303.

Checklist Item 14: Availability of Resale

TRA EVIDENCE	FCC EVIDENCE	FCC DECISION
Falvey testimony, Tr. Vol. XI , at pages 134-135. BellSouth refuses to allow resale of service if the customer has a mix of flat and measured service.	None.	Did not address this issue, but said that BellSouth cannot impose unreasonable or discriminatory conditions on the resale of service. Louisiana II, paragraph 315.

Public Interest Test

Other than the fourteen point checklist, the FCC has asked specifically for “evidence that a BOC applicant has engaged in discriminatory or other anticompetitive conduct.” *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, rel. August 19, 1997.

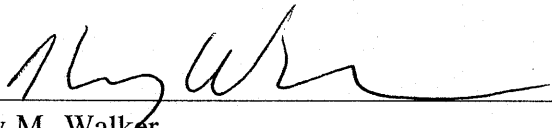
ACSI’s witness Mr. Falvey testified to a variety of potentially anticompetitive practices utilized by BellSouth even as it claims to have opened its markets to local competition in these proceedings, including: (1) signing businesses to multi-year contracts (tr. Vol. XI, at pages 151-153), (2) property management agreements whereby the building manager is paid to promote BellSouth as the preferred provider (*id.*, at pp. 149-152; Varner cross-examination, Vol. III, pp. 37-71); (3) customer-specific Contract Service Arrangements (“CSAs”) (Varner, Vol. III, pp. 20-36); (4) exclusive sales agency contracts (tr. Vol. XI, pp. 153-155). Mr. Falvey further testified that such activities would not necessarily be inappropriate in a competitive market; however, the effect when utilized by the incumbent monopolist is to inhibit the development of competition by reducing the pool of potential customers available to competitive providers. *Id.*

The FCC did not address these state-specific issues.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of December, 1998, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S. Mail, postage prepaid, addressed as follows:

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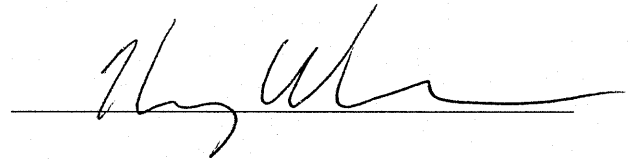
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A handwritten signature in dark ink, appearing to read "D. Sanders", is written over a horizontal line.